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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/909,630	07/19/2001	Yakov Kamen	007287.00016	9979
22907 7590 05/18/2010 BANNER & WITCOFF, LTD. 1100 13th STREET, N.W. SUITE 1200 WASHINGTON, DC 20005-4051				
EXAMINER CASCHERA, ANTONIO A				
ART UNIT		PAPER NUMBER		
2628				
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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

09/909,630

Applicant(s)

KAMEN, YAKOV

Examiner

Antonio A. Caschera

Art Unit

2628

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 17 February 2010.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-7, 11-17 and 21-27 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1, 11 and 21-27 is/are rejected.
- 7) ☒ Claim(s) 2-7 and 12-17 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 31 December 2001 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-85/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

Priority

1. This application claims the benefit of application no. 60/241,885, filed 10/19/2000.

Claim Rejections - 35 USC § 101

35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

2. Claims 21-27 are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter.

In reference to claims 21-27, the analysis of claim language as per 35 U.S.C. 101 question the claimed terminology of a "tangible machine-readable storage medium" recited in claims 21-27, as per the appropriate subject matter deemed patentable under this title. The specification of the instant application does clearly suggest to one of ordinary skill in the art that, by an explicit definition of the term, such a "tangible machine-readable storage medium" could be one of signals, or other forms of propagation and transmission media (see at least paragraphs 17-18 of Applicant's specification which only provides non-limiting examples of forms of "machine-readable storage" media allowing one of ordinary skill in the art to surely interpret such a term as encompassing any storage medium including transitory types) which fail to be an appropriate manufacture under 35 U.S.C. 101 in the context of computer-related inventions and therefore requires this rejection.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. Claims 1, 11 and 21 are rejected under 35 U.S.C. 102(b) as being anticipated by Bedard (U.S. Patent 5,793,438).

In reference to claim 1, Bedard discloses a computer-implemented method (see column 1, lines 20-25 and column 3, lines 17-22) comprising:

(a) receiving, at a computing device, a selection of an object displayed in an electronic programming guide (EPG) (see column 3, lines 23-36, columns 3-4, lines 62-6, column 4, lines 41-47, column 5, lines 8-22 and 42-49 wherein Bedard discloses a method of receiving a selection to manipulation a magnified area within an EPG via a remote control or other control means.);

(b) modifying a non-textual attribute associated with the object by an incremental amount for each of at least two times that the object is selected, wherein the non-textual attribute after each modification visually indicates a number of times the object has been selected, wherein each modification of the attribute includes changing a visible characteristic of the object and wherein each modification results in a different appearance of the object (see column 5, lines 8-22 and Figure 5 wherein Bedard discloses that upon manipulation (via selection) of the magnified area of the EPG, the area is incrementally shifted (by $\frac{1}{2}$ hr increments as seen in at

least Figure 5) left or right dependent upon user's input. Bedard inherently discloses that one may gather a number of times the magnified area has been selected via where (i.e. at what time slot) the area is currently positioned with reference to a starting time (i.e. current time). Further, Examiner interprets that the non-textual attribute and the visible characteristic of the magnified area that is changed is the screen position of the area as selection of the area modifies its position resulting in a different appearance of the object as it is seen within the EPG.); and

(c) modifying the display of the object in accordance with the modified non-textual attribute (see column 5, lines 5-22 and Figure 5 wherein Bedard discloses that upon manipulation (via selection) of the magnified area of the EPG, the area is incrementally shifted (by $\frac{1}{2}$ hr increments as seen in at least Figure 5) left or right dependent upon user's input. The Examiner interprets that the non-textual attribute and the visible characteristic of the magnified area that is changed is the screen position of the area as selection of the area modifies its position resulting in a different appearance of the object as it is seen within the EPG.). (see *Response to Arguments* below)

In reference to claims 11 and 21, claims 11 and 21 are equivalent in scope to claim 1 and is therefore rejected under like rationale. In addition to the above rationale as applied to claim 1, Bedard discloses the setup unit to comprise of a microprocessor (see column 3, lines 37-49) which inherently comprises some sort of memory for storing instructions that are executed by the microprocessor.

Response to Arguments

4. Applicant's arguments filed 02/17/10 have been fully considered but they are not persuasive.

In reference to claims 1, 11 and 21, Applicant argues that the Bedard reference does not teach the limitation of "wherein the non-textual attribute after each modification visually indicates a number of items the object has been selected," and further contests Examiner's interpretation of the reference (see pages 6-7 of Applicant's Remarks). In response, the Examiner disagrees. As stated above, Bedard discloses that upon manipulation (via selection) of the magnified area of the EPG, the area is incrementally shifted (by $\frac{1}{2}$ hr increments as seen in at least Figure 5) left or right dependent upon user's input (see column 5, lines 8-22 and Figure 5). Bedard inherently discloses that one may gather a number of times the magnified area has been selected via where (i.e. at what time slot) the area is currently positioned with reference to a starting time (i.e. current time). Applicant's Remarks provide an example of operating Bedard's viewer whereby a first time slot is selected in table 502, a second slot is next selected and then again the first slot is selected which would provide no indication of the number of times that the first time slot was selected (see page 7 of Applicant's Remarks). In actuality, Bedard's teachings and what one of ordinary skill in the art would be inclined to inherently conclude from such teachings provide that which is claimed. Taking the Applicant's example, the viewer of Bedard provides a magnified table view of the selected time slot. Therefore, one of ordinary skill in the art would surely realize that as each time a slot is selected, that particular time/slot is magnified therefore moving from one time slot to the next surely provides "an indication" of the number of times the object has been selected since the indication is the magnified slot and the number of times is simply gathered from the user of the system as to their starting and ending time slot, the

indication of time by the ½ hour increments and the movement of the slot which they (the user of the system) are in control of. Further, the claims do not recite a limitation which explicitly displays some sort of "hit counter." Therefore, the Examiner interprets the teachings of Bedard to disclose a all of the limitations of the above claims.

Allowable Subject Matter

5. Claims 2-7 and 12-17 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Antonio Caschera whose telephone number is (571) 272-7781. The examiner can normally be reached Monday, Tuesday, Thursday and Friday between 7:00 AM and 5:30 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Kee Tung, can be reached at (571) 272-7794.

Any response to this action should be mailed to:

Commissioner of Patents and Trademarks

Washington, D.C. 20231

or faxed to:

Art Unit: 2628

571-273-8300 (Central Fax)

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Technology Center 2600 Customer Service Office whose telephone number is (571) 272-2600.

/Antonio A Caschera/

Primary Examiner, Art Unit 2628

5/17/10